

1 April 5, 2018



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4 **Talbot County Planning Commission**  
5 **Final Decision Summary**

6 Wednesday, March 7, 2018 at 9:00 a.m.

7 Wye Oak Room, Community Center

8 10028 Ocean Gateway, Easton, Maryland

9 **Attendance:**

10 Commission Members:

11 John N. Fischer, Jr., Chairman

12 Paul Spies, Vice Chairman

13 William Boicourt

14 Michael Sullivan (absent)

15 Phillip "Chip" Councill

16 Staff:

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18 Mary Kay Verdery, Planning Officer

19 Miguel Salinas, Assistant Planning Officer

20 Brennan Tarleton, Planner I

21 Elisa Deflaux, Environmental Planner

22 Martin Sokolich, Senior Planner

23 Anthony Kupersmith, County Attorney

24 Mary O'Donnell, Assistant County Attorney

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27 **1. Call to Order**—Commissioner Fischer called the meeting to order at 9:00 a.m.  
28 Commissioner Fischer explained there were only four (4) members of the Commission  
29 present and that a tie vote is considered a negative vote. Mr. Fischer explained that if any  
30 applicant chooses, they can withdraw without penalty until the next month.

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32 **2. Decision Summary Review**—January 16, 2017—The Commission noted the  
33 following corrections to the draft decision summary:

- 34 a. Line 319-321, Statement is unclear, need to clarify.

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36 **Commissioner Boicourt moved to table the review of the January 16, 2017**  
37 **Minutes and have staff clarify lines 319-321. Commissioner Councill**  
38 **seconded the Motion. The motion carried unanimously.**  
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- 40 **3. Decision Summary Review**—February 7, 2017—The Commission noted the  
41 following corrections to the draft decision summary:

- 42 a. Line 351, delete the repeated "not".  
43 b. Line 324, pg 7 correct "Hutcheson" spelling with "Hutchison".  
44 c. Line 455, Strike the sentence starting with "Commissioner Fischer did not".  
45 d. Line 475, delete the word "dispense" in the first sentence, and correct to read:  
46 "Commissioner Fischer wanted to reply to some comments that may have implied  
47 the Planning Department has not done a good job here."  
48 e. Line 477-478, delete the phrase "and on the village subject since 2007."  
49 f. Line 478, change "classifications" to "preferences".

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51 **Commissioner Boicourt moved to approve the draft Planning Commission**  
52 **Decision Summary for February 7, 2018, as amended. Commissioner**  
53 **Councill seconded the motion. The motion carried unanimously.**  
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Mr. Salinas proposed to the Commission a change in the format of the Commission minutes to a summary format. Currently the minutes consist of a literal transcription of the recordings which can take a considerable amount of staff time and resources. Staff are required to keep digital recordings of the proceeding which are available by request to the public. After discussion, the Commission agreed to an interim change of the minutes to a Summary Format.

#### 4. Old Business—None.

#### 5. New Business

- a. Administrative Variance—Jason & Casey Scott, #A241—4003 Lowry Lane, Trappe, MD 21673, (map 54, grid 21, parcel 183, Lot 23, zoned Rural Conservation), Elizabeth Fink of Fink, Whitten & Associates, LLC, Agent.

Mr. Tarleton presented the staff report of the applicant's request for two (2) variances within the Shoreline Development Buffer (Buffer): 1) a master bedroom addition that will generate an increase of 34 sq. ft. of new Gross Floor Area (GFA); 2) a dining room addition that will create an increase of 11 sq. ft. of GFA. The total net increase in GFA within the Buffer will be approximately 45 sq. ft. which is significantly under the 20% GFA expansion (586 sq. ft.) within the Buffer that is permitted to be approved through the administrative variance process. All of the proposed expansions to the residential structure will be located no closer to Mean High Water (MHW) than is currently existing today.

Staff recommendation for conditions include:

1. The applicants shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
2. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Planning Office's 'Notice to Proceed'.
3. The applicant shall mitigate for the disturbance to the Shoreline Development Buffer with 3 times the disturbance to the buffer. A buffer management plan will need to be submitted in conjunction with the building permit application, if applicable.

Elizabeth Fink of Fink, Whitten & Associates, LLC along with Jason Scott appeared before the Commission.

**Commissioner Spies moved to recommend to the Planning Officer approval of the Administrative Variance for Jason & Casey Scott, 4003 Lowry Lane, Trappe, MD 21673, provided compliance with staff recommended conditions occurs. Commissioner Councill seconded the motion. The motion carried unanimously.**

- b. Small Scale Subdivision—Change Point Land Company LLC—6530 Bozman Neavitt Road, Neavitt, MD 21652 (map 39, grid 20, parcel 89, zoned Rural Conservation), Elizabeth Fink of Fink, Whitten & Associates, LLC, Agent.

Mr. Tarleton presented the Staff Report for approval of a Final Plat for a Small Scale Subdivision to create one buildable lot approximately 5 acres in size on a property located at 6530 Bozman Neavitt Road. Although the subdivision plat is listed as a major subdivision, the parcel is classified as a Tier IV septic tier designation. As such, the project meets the definition of a small scale subdivision.

Staff recommendation for conditions include:

1. Address the February 14, 2018 TAC comments from the Department of Planning & Zoning, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District and the Environmental Planner prior to CRM submittal for the final plat.

Elizabeth Fink of Fink, Whitten & Associates, LLC along with Bob Jump appeared before the Planning Commission.

**Commissioner Spies moved to approve the Final Small Scale Subdivision for Change Point Land Company, LLC, 6530 Bozman Neavitt Road, Neavitt, MD 21652, with all staff recommended conditions being complied with. Commissioner Boicourt seconded the motion. The motion carried unanimously.**

## 6. Discussion Items

Mr. Salinas stated there was a request for interpretation of a proposed land use. The use is a farm distillery. We have a land use that is called “agricultural uses and structures, accessory”. In the current Chapter 190, this use is permitted in the Village Center district and requires that the primary product must be grown on the property, minimum setbacks, site plan approval, the processing use shall be subordinate to the agricultural use on the property, and includes cheese making and wineries. The land use does not specify a farm distillery. The individuals are trying to determine if they should move forward under the current Code. The Code gives staff the ability to ask the Planning Commission for their interpretation.

The Commission stated they support a farm distillery under the “agricultural uses and structures, accessory” land use. Commissioner Spies stated we should go through the Code, identify where it says fortified alcohol production and make a change. Mr. Salinas noted the applicant would still need to come before the Commission for a site plan.

## 5. New Business

- Public Hearing - NextStep190—Talbot County Zoning Ordinance

Commissioner Fischer opened the public hearing portion of the NextStep190, Talbot County Zoning Ordinance.

Ms. Verdery presented recent issues which had been discussed with the County Council to include the following (see public hearing summary below for additional detail): agritourism land uses and minimum lot sizes including agricultural processing, farm based recreation, farm to table restaurants, direct farm marketing and farm alcohol production; draft language for event venues and maximum number of guests; outdoor music at restaurants; village zoning designations; cottage industry as an accessory use; regulations of cottage industry sales; birds on residential lots; and short term rentals.

**Commissioner Boicourt moved to adopt the new language in Section 33.11 of Section 190 of the Talbot County Zoning Ordinance. Commissioner Councill seconded the motion. The motion carried unanimously.**

**Public Hearing and Work Session comments:**

Twenty-three people provided public comments on topics including: Affordable Workforce Housing Floating District; agriculture; agritourism; chickens on residential lots; prohibitive code; home occupations; hotels; landscaping requirements; long-term rentals; complaint-based code enforcement; noise and music; short term rentals; and event venues.

Talbot County Council President Jennifer Williams thanked everyone for coming to the Public Hearing and providing comments. Ms. Williams also thanked the Planning Commission and County staff for all of their work on the Ordinance.

Commissioner Fischer adjourned the Public Hearing.

b. Work Session - NextStep190—Talbot County Zoning Ordinance

The Planning Commission reviewed the changes to Chapter 190 of the Talbot County Zoning Ordinance with staff.

Commissioner Fischer adjourned the morning session.

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Commissioner Fischer reconvened the afternoon session at 5:00 p.m.

e. Public Hearing - NextStep190—Talbot County Zoning Ordinance

Commissioner Fischer opened the public hearing portion of the NextStep190, Talbot County Zoning Ordinance.

Ms. Verdery presented slides regarding issues which had been discussed at the February 22, 2018 Joint Planning Commission/County Council Work Session. Below is a summary of some the topics presented and discussed.

- The draft text proposes agritourism land uses and minimum property sizes. The Planning Commission felt the sizes were adequate but felt the Farm-to-Table restaurant land use was not appropriate at this time. Event venues require a site plan which includes the number of events and the number of attendees based on the property size. In lieu of having specific regulations in the Ordinance, the individual is given the opportunity to make their own request based on their individual parcel.
- Outdoor music and events at a restaurant were discussed. The current Code's Table of Land Uses includes Restaurants, Bars and Night clubs as a land use. Staff recommended the Planning Commission consider separating this land use into two categories: a) Restaurants, Bars and Night Clubs with no outdoor music permitted by-right, and b) Restaurants, Bars and Night Clubs with outdoor event areas permitted as a special exception in the VH, VM and LC zoning districts. The frequency of events and number of people would also be part of the required site plan process. One public comment suggested that a village overlay district could be applied on certain properties or areas to allow for outdoor music as a special exception where restaurants already exist.
- The Cottage Industry land use was listed in a previous version of the draft text as permitted as a special exception, which is incorrect. Under the current code, a Cottage Industry is an accessory use. Staff proposes that Cottage Industry remain an accessory use.
- Requirements for off-site retail sales, on-line and catalog sales is being defined for Cottage Industries. Similar language will be placed in the Home Occupation land use.
- For Poultry, Waterfowl and Game Birds on Residential Lots, the number of birds was not the cause of the nuisance complaints. The nuisance complaints were often the result of improper care or maintenance of the birds or the location of roosters being too close to neighboring properties. In lieu of a strict number of birds based on parcel size, it was suggested and agreed to by the Planning Commission that birds shall be maintained on the subject parcel and not permitted to roam at large onto neighboring properties or roadways and shall be maintained so they do not constitute a nuisance due to noise, odor, public health or safety concerns. The structural enclosures must meet minimum bulk setbacks. Roosters are permitted, provided their enclosure is 200 feet from neighboring residential dwellings. On-site sales of eggs require registration with the Maryland Department of Agriculture. If your property is over five acres you fall under agricultural production and do not fall under this land use.
- Several citizens suggested that Short Term Rental license be issued only where the homeowner's property is their primary residence. Staff proposes the County request primary residence information on the application so we can, through data collection, determine whether that makes a difference on

238 enforcement or the issues associated with a short term rental. There were  
239 public comments about covenanted neighborhoods. A private covenant  
240 that expressly prohibits a short term rental can exist, but it is the  
241 responsibility of the homeowners association to enforce that private  
242 covenant or restriction. The draft text states that only a record title holder  
243 can apply, which is the current Code standard. But, if the title holder is a  
244 corporate entity, the draft text states that the application includes the name  
245 and address of the principal. The County does not currently request this  
246 additional information and it is sometimes difficult to contact the owner.  
247 The Code Compliance Officer is to take the lead in enforcement actions  
248 outside of the application process, during the application renewal and will  
249 pursue Short Term Rental Review Board determinations when  
250 appropriate. The County Council has committed to additional enforcement  
251 resources. If a neighbor alleges that a verified complaint remains  
252 unresolved during a renewal period they can pursue a hearing before the  
253 Short Term Rental Review Board. New licenses are issued for a one year  
254 period. A renewal license can be issued for up to a two year period. If you  
255 have verified complaints, you are required to renew the license every year,  
256 and there could be additional standards or conditions attached to the  
257 renewal. For notification it is required that the applicant notify contiguous  
258 properties; those properties across a roadway, road easement or right of  
259 way; all other properties in line of sight within 1,000 feet including across  
260 waterways; and notification to homeowners associations.

- There were some citizen requests for the consideration of a Village  
Hamlet zoning designation for the villages of Fairbank and Tunis Mills  
and Village Mixed for Bar Neck.

#### **Public Hearing and Work Session comments:**

267 Twenty-eight people provided public comments on topics including: chickens on  
268 residential lots; cottage industries; home occupations; village master plans; noise  
269 and music; short term rentals; and event venues.

271 Ms. Williams thanked everyone for coming out and giving their comments and  
272 also thanked the Planning Commission and staff for all of their work on the  
273 Ordinance.

#### **f. Worksession - NextStep190—Talbot County Zoning Ordinance**

277 The Planning Commission reviewed the changes to Chapter 190 of the Talbot  
278 County Zoning Ordinance with staff.

### **6. Staff Matters**

### **7. WorkSessions**

284       **8. Commission Matters**

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286       **9. Adjournment**—Commissioner Fischer adjourned the meeting.

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